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ABSTRACT

There are difficulties confronting gay parents when they seek custody of their children in a divorce suit. Court decisions are running about 50-50 in favor of the gay parent. Homophobia, the fear of same-sex intimacy or relationships, is rather strong in our society. The scant research done on gay families shows no negative effects on the children and that any difficulties with the parent were typical for any children of divorced parents. The parent's sexual orientation has little to do with whether one wants to be a parent or can be a good one. Neither does this orientation have an effect on the child's sexual identity or whether he becomes hetrosexual. The anti-gay campaign of Save Our Children (SOC) has not only had an effect on child custody battles, but has re-activated homophobia in this country. In view of this, psychologists called as expert witnesses should work to offset the innacurate stereotyped opinions others have of homosexuals. (Author/LEB)

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Gay Parents and Child Custody Issues

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Gay Parents and Child Custody Issues

A surprising number of the estimated 20 million gay persons in this country are parents. Of these, probably at least one-third of the lesbians and around 10% of the gay males have children, though not all have custody.

Many gay parents remain in nonsupportive heterosexual marriages, or live very "closeted" lives, for fear of losing their children. Once their preferred lifestyle is discovered, gay parents must decide if they and their children have more to lose by fighting or by not fighting a custody battle. If the gay parent shows signs of pushing for primary custody, the heterosexual parent may threaten to launch either a major media campaign which would humiliate the children, or a very dirty court battle in which the gay parent may lose even visitation rights. All too often the gay parent relinquishes any right to primary custody of the children due to this process of subtle blackmail.

Since court decisions are only running about 50-50 in favor of the gay parent, going to court is a risky proposition. Custody battles which do reach court are inevitably messy and are never finally settled until the child comes of age. As long as the child is a minor, any custody decision may be reopened whenever a "change of circumstance" (e.g., new job, remarriage, etc.) can be demonstrated. In addition, child custody decisions may be contested not only by the other parent, but also by relatives or by Child Protective Services.

Psychologists as Expert Witnesses

Current fears about gay parents are usually couched in psychological terminology and are based on various myths and prejudices about gay persons. Our society is one of the most negative about gay persons, condemning same-sex relationships as "crimes against nature" or "unnatural acts" (Ford and Beach, 1972; Storr, 1964). This homophobia[1] is reflected in the research questions asked and the interpretations given to research data. For example, gay persons are often described by studying patient or institutionalized populations, a generalization process which would not be tolerated regarding heterosexuals (Bell, 1973). The psychoanalytically-oriented literature continues to be adamantly homophobic, ignoring the fact that Freud (1938) described all persons as potentially bisexual (though he refused to explore the implications of that belief when challenged in correspondence). Little research focuses on the lives of gay children, unique aspects of same-sex relationships, or other issues about gay lifestyles.

One basic limitation of the research literature has been the myopic focus on etiology, as inferred from adult recall of childhood experiences. One might just as well try to isolate one or two factors which "cause" heterosexuality, since we are all born bisexual/bipotential. The question of etiology specific to homosexuality implies an unnaturalness or pathology just in the asking.

Any testifying psychologist needs to be able to both critique the research literature which reflects homophobic bias and to cite the research

literature supportive of gay lifestyles. However, any cursory review of expert testimony transcripts in child custody cases involving gay parents will show that psychologists often repeat heterosexist assumptions and stereotypes, rather than the research literature as it actually stands. Although more research needs to be done on gay parents, the existing literature is much more positive than usually comes out in court. The slanted view given is particularly unfortunate in light of the gay advocacy resolutions[2] passed by the American Psychological Association, urging all psychologists to "take the lead in removing the stigma of mental illness that has long been associated with homosexual orientations."

The demythifying which needs to be done about gays in general, and gay parents in particular, is enormous. Thus, the psychologist often becomes the key expert witness. Even with supportive expert testimony, though, it is common for the judge to refuse to give custody to a gay parent because of "not wanting to be responsible for the consequences" -- i.e., fear that the child will not turn out "normal" (heterosexual). Personally, I have spent up to 5½ hours on the witness stand, with no opposing testimony, and still had the judge refuse to grant custody to a perfectly competent gay parent for these reasons. Never underestimate how much the misinformation present in the courts can influence a custody decision.

Reviewing the Research Literature

There are a variety of questions which are usually raised, publically or privately, when gay parents are identified. In this section, a representative sample of such questions are given, along with both general responses to each question and several references from the research literature.

Gay Families in General

There is very little research as yet on gay families. Dr. Evelyn Hooker (affidavit of testimony, 1973[3]) followed a number of gay families after therapy and found that:

a) There was no maladjustment by the children which was attributable to the parent's lifestyle.

b) There was no evidence of proselytizing on the part of the gay parent.

c) There were no untoward effects of growing up knowing that the parent was gay.

In the one in-depth study of lesbian mothers and their children (Kirkpatrick, Roy, & Smith, 1976), interviewing and testing of 20 children, ages 5-12, revealed:

a) Any difficulties with the parent reflected typical problems for children of divorced parents, rather than specific problems about the parent's lifestyle.

b) There was no evidence that children were forming transexual self-images, adopting opposite sex role behaviors, or were particularly likely to become gay themselves.

c) The children had the same range of contact with their fathers as was found in children of divorced heterosexual mothers.

Recent survey data from the Institute for Sex Research (1977) confirms the above findings. They found in interviewing gay parents and their children (12 years or older) that most children who found out that their parents

were gay either had no apparent reaction or acted understanding. There was no significant change in the relationship between child and parent.

Gay Persons as Parents

There is no evidence that gay persons do not make good parents. The informal data indicates that the parent's sexual orientation has no negative effect on the child (Bell, 1973; affidavits of testimony from Drs. Hooker and Money). For several years now, gay homes have been used as foster homes in Chicago, New York, and San Francisco, with no untoward results.

Parenting is a set of skills which are learned, rather than an inborn trait. Since persons learn these skills if they are sufficiently motivated, are gay parents likely to be so motivated?

Gay parents seeking to retain custody are generally highly motivated to be parents. Those who have children within heterosexual marriages often stay in those marriages rather than run the risk of losing custody of their children, or go through agonizing court battles to retain custody. A growing number of lesbians are choosing to have children outside of heterosexual marriage (through artificial insemination or selection of a biological father) because they want to be mothers. Sexual orientation has little to do with whether or not one wants to be a parent, but has a lot to do with motivation because of the high cost of being a gay parent at this time.

Gay Persons as Promiscuous

The evidence for any great promiscuity among gays comes either from clinical populations or from data on sexual activity while the person is

"coming out", a process similar to heterosexual dating during adolescence (Saghir & Robins, 1969; Saghir, Robins, & Walbran, 1969). In non-clinical populations, gays are as likely as heterosexuals to form long-lasting, committed relationships (Dickey, 1961). This is particularly true after the age of thirty (Cotton, 1972; Cotton, 1975).

Gay Parents and the Child's Sexual Identity

The establishment of sexual and gender identity is a complex process, as we know from the work done at Johns Hopkins and elsewhere with transsexuals. Chromosomal, hormonal, and gonadal identity are determined physiologically. Gender identity is fixed by the age of 3-4 years, mediated through the use of sex-specific pronouns to refer to oneself as male or female (Money & Ehrhardt, 1972, pp. 20-23). There is little direct relationship between a set sexual identity and one's choice of lifestyle. Whom we choose to relate to in what way appears to evolve and change throughout our lifetime.

Gay Parents and "Normal" Children

Asking whether the child of a gay parent will be "normal" always implies that being gay is a negative, undesirable outcome. It is important to bear in mind that, when we speak of sexual orientation, we are speaking of a continuum of identity and behavior (Kinsey et al., 1953) ranging from exclusively heterosexual to exclusively homosexual with most of the population somewhere in between. There are numberous studies, from the mid-fifties to the present time, which indicate that gays are as happy as heterosexuals (Weinberg, 1972; Weinberg & Williams, 1974).

In fact, lesbians (in comparison to heterosexual women) are more self-confident, more independent, more self-sufficient, more reserved, more dominant, more bohemian, more resilient, and more composed (Hopkins, 1969). Gay men (in comparison to heterosexual men) are less defensive, more self-concerned, and function well in society (Saghir & Robins, 1971; Saghir & Robins, 1973; Thompson, McCandless, & Strickland, 1971).

There is no evidence that gay parents are more likely to raise gay children (affidavits of testimony from Drs. Blair, Marmor, and Spock). Most gays were raised by heterosexual parents (Kinsey et al., 1953). In fact, one study of 100 lesbians found that all of them had had heterosexual parents (Newsweek, 1973).

Gay Parents and Proselitizing

Again, there is no evidence that gay parents try to force their children to be gay (affidavits of testimony from Drs. Blair, Marmor, Pomeroy, Spock, and Weinberg). I have found in my own work with gay families that, if anything, gay parents lean over backwards to support the child's own choice (much more so than do heterosexual parents of gay children).

The issue of proselitizing comes, I believe, from a simplistic notion of how we adopt alternative lifestyles. The process of choice involved is extremely complex, rather than being one of simple imitation or didactic teaching (Heilbrun, 1973).

Gay Parents and Molestation or Seduction

Regarding child molestation, 97% of child molesters are heterosexual males (usually related to the child), and 87% of the victims are girls

("Protecting the child victim", 1973; Gramick, 1973). Arguing from these data, children are safer in a homosexual milieu.

Regarding seduction, there is no evidence that gay parents are more likely to seduce their children or allow them to be seduced (Klein, 1973, pp. 107-108). Of the adult males who prefer interacting sexually with boys, those who are homosexual tend to be more stereotypically masculine, while those who are heterosexual tend to be more stereotypically feminine. This suggests that selection of immature sexual partners by adults comes from a lack of integration of their own masculine and feminine attributes. It appears to have little to do with the choice of a particular lifestyle (Freund et al., 1974).

The vast majority of persons who have same-sex relations during childhood do so with peers (Institute for Sex Research, 1977). Even if relations are with an adult, there is no correlation between same-sex encounters and becoming gay. In a study of 108 boys who were seduced by adult males while between the ages of 7 and 16, none of them were found as adults to have become gay (Doshay, 1943).

Opposite-Sex Role Models

It is virtually impossible for children to grow up in this society and go through our educational system without exposure to adult role models of both sexes. In addition, I have found that gay parents are extremely concerned about this issue and make sure to build in steady contact with family members (siblings, parents, aunts/uncles/cousins) of the opposite sex.

A crucial question is "role models for what?" -- Being a man or a woman? Relating with warmth and affection? Having a sense of personal integrity? Modelling is a complex process. The evidence indicates that, after early childhood, peers and significant adults (not necessarily parents) serve as primary role models. We choose the persons we want to identify with because of perceived valued characteristics (Bell, 1973; Heilbrun, 1973).

Exposure to Overt Same-Sex Sexuality

Part of the issue here is the general one of how sexual parents should be in front of children. There is no evidence to indicate that gays are more likely to be inappropriate in front of children than are heterosexuals. If anything, I have found several times that same-sex couples have virtually ceased relating sexually because of concern that they will inadvertently damage the child.

What evidence there is suggests that it is beneficial for a child to grow up in a home where the parents are affectionate and warm and loving, both with the child and with each other. This open affection provides the child with a sense of emotional security (Goldstein, Freud, and Solnit, 1973, pp. 9-14)

Growing Up in an Alternate Lifestyle Home

There are many situations (e.g., interracial or interfaith marriages) where children are exposed to ridicule because of the lifestyle of their parents. We generally view this not as a reason to remove the child, but as an opportunity for the child to learn tolerance and acceptance of differences. Children can learn to deal more easily with teasing and intolerance than with

the loss of an important parent. Clearly, the degree of stress experienced by the child will be related to the kind of support given by the parent. There is no evidence that gay parents are less able or less likely to give this support than heterosexual parents similarly situated (Klein, 1973, p. 110; affidavits of testimony from Drs. Marmor and Money).

A related issue is the effect on the child of knowing that the parent is gay. The Institute for Sex Research (1977) has found that, for children 12 years or older who knew a parent was gay, there did not seem to be any detrimental effects.

When the parent is a gay activist, particular concern is often expressed for the child. There is no data that a parent's political activity is *a priori* harmful to the child. As with any heterosexual parent involved in politics, one would expect that a crucial factor would be whether or not the parent took time from political commitments to care for the child. The parent's activities, appropriately shared, can provide an opportunity for the child to learn that we can take action to effect social change (affidavit of testimony from Dr. Weinberg).

The Impact of *Save Our Children*

The Save Our Children (SOC) campaign has provided a focus for activating homophobia in this country. Obviously, the anti-gay backlash being created cannot help but affect child custody battles.

At first glance, the major accusation is that of child molestation. Although prime movers in SOC know that gays do not usually molest minors, they

have found that people believe this stereotype and so they use it and reinforce it. Unfortunately, simple repetition of the facts does not necessarily help erode this myth.

The more complex accusations have to do with role modelling, proselytizing and flaunting. "Expose children to gays and they will become gay" -- so goes the argument from SOC. It is not always clear whether this is because children are thought to be so impressionable, or because gays are thought to be so persuasive.

When children find out that their parents have lied about something, they are likely to discredit all of that parent's beliefs. We have seen this graphically in the area of drug abuse. The same thing can happen if children are taught that gays are "queers and perverts". Once the child meets a gay who is a pleasant human being, the dissonance magnifies the encounter out of all proportion. But the fault lies with the parental attitudes, not with the gay person. The child needs help with values clarification, not with avoiding gays.

As with the impact of any other fascist movement, what is at issue is the question of free choice. Do we legislate morality and dictate our children's lives, or do we trust them to learn to make their own decisions if surrounded by loving, caring persons? Do we put energy into policing their environment and creating a fantasy world for them, or do we help them learn to discriminate what is growthful or harmful for them through practice?

If a child meets gay persons who take pride in their lives, would that child necessarily want to become gay? Hopefully, what the child would learn

is the importance of pride in oneself and the fact that persons are to be respected for differences lived with integrity, not just similarities. Morin (1974) has found that exposing college students to gay speakers resulted in significant increases in self-esteem (presumably because they no longer feared a particular lifestyle). Hopefully, feeling comfortable with persons from a variety of lifestyles can increase one's comfort with oneself as a unique individual, not as a carbon copy of someone else.

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Footnotes

[1]"Homophobia" is the fear of same-sex intimacy or relationships. It includes the irrational emotional response, as well as the concommitent attitudes, beliefs, and actions.

[2]For copies of such resolutions, see Appendix A.

[3]For biographical information about the experts cited, see Appendix B. The texts of the affidavits of testimony are contained in the booklet, Gay Parent Support Packet, distributed by the National Gay Task Force, 80 Fifth Avenue, New York, NY 10011.

Appendix A

Resolutions Regarding Gay Persons Passed by the American Psychological Association*

Passed in January 1975:

1. The American Psychological Association supports the action taken on 15 December 1973 by the American Psychiatric Association removing homosexuality from the Association's official list of mental disorders. The American Psychological Association therefore adopts the following resolution:

   Homosexuality per se implies no impairment in judgment, stability, reliability, or general social or vocational capabilities;

   Further, the American Psychological Association urges all mental health professionals to take the lead in removing the stigma of mental illness that has long been associated with homosexual orientations.

2. Regarding discrimination against homosexuals, the American Psychological Association adopts the following resolution concerning their civil and legal rights:

   The American Psychological Association deplores all public and private discrimination in such areas as employment, housing, public accomodation, and licensing against those who engage in or have engaged in homosexual activities and declares that no burden of proof of such judgment, capacity, or reliability shall

be placed upon these individuals greater than that imposed on any other persons;

Further, the American Psychological Association supports and urges the enactment of civil rights legislation at the local, state and federal level that would offer citizens who engage in acts of homosexuality the same protections now guaranteed to others on the basis of race, creed, color, etc;

Further, the American Psychological Association supports and urges the repeal of all discriminatory legislation singling out homosexual acts by consenting adults in private.

Passed on September 5, 1976:

The sex, gender-identification, or sexual orientation of natural or prospective adoptive or foster parents should not be the sole or primary consideration in custody or placement cases.

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*The first two resolutions are similar to those passed by other professional organizations, e.g., the American Psychiatric Association and the American Medical Association.

Appendix B

Biographical Data on Experts Cited

Dr. Evelyn Hooker is Clinical Professor in the Dept. of Psychiatry School of Medicine, University of California, Los Angeles. She was head of the Task Force on Homosexuality of the United States National Institute of Mental Health of the Department of Health Education and Welfare. She is a distinguished researcher on human sexuality.

Dr. Judd Marmor is Franz Alexander Professor of Psychiatry at the University of Southern California School of Medicine. He was President of the American Psychiatric Association (1975-76). He is a leading authority on homosexuality and has published many scholarly research papers and books on the topic.

Dr. Wardell B. Pomeroy was long associated with the late Alfred Kinsey and with Dr. Kinsey was co-author of many of the best known books and studies published from the "Kinsey" Institute at the University of Indiana. He is presently in private practice in New York City.

Dr. George Weinberg is a prominent therapist with a large practice among homosexual women and men. He is author of the widely regarded book, SOCIETY AND THE HEALTHY HOMOSEXUAL.

Dr. Benjamin Spock is the nation's acknowledged leading pediatrician and author of the books on babies and children which have been the basis for the rearing of most American children for decades.

Dr. Ralph Blair is the Director of The Homosexual Community Counseling Center, Inc. in New York City.

Dr. John Money is Professor of Medical Psychology and Associate Professor of Pediatrics, Johns Hopkins University School of Medicine. He is regarded as one of the world's foremost authorities on the physiology and psychology of sexual development. Dr. Money is author of the book, MAN*WOMAN/BOY*GIRL and of hundreds of research papers.